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1920

REMOTE STORAGE

THE WORKMEN'S COMPENSATION ACT

NOVA SCOTIA

WITH AMENDMENTS TO MAY, 1920,
CONSOLIDATED

HALIFAX, N. S.
KING'S PRINTER
1920

331.82
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The Workmen's Compensation Act

NOVA SCOTIA

WITH AMENDMENTS OF 1920

NOTE: For convenience the Workmen's Compensation Act passed in 1915 and all amendments since that date, including the amendments passed in May, 1920, have been consolidated by the Board. The reference to amendments are shown at the end of sections. Sections without such references are unamended sections of Chapter 1 of the Acts of 1915. The Workmen's Compensation Act although passed in 1915 did not become operative as respects the payment of compensation until January 1st, 1917.

The Acts included in this consolidation are as follows:

Acts 1915, Chapter 1, passed April 23rd, 1915.

Acts 1916, Chapter 7, passed May 17th, 1916.

Acts 1917, Chapter 70, passed May 9th, 1917.

Acts 1917, Chapter 71, passed May 9th, 1917.

Acts 1918, Chapter 45, passed April 26th, 1919.

Acts 1919, Chapter 61, passed May 17th, 1919.

Acts 1920, Chapter 42, passed May 22nd, 1920.

Be it enacted by the Governor, Council, and Asesmbly as follows:—

PRELIMINARY.

1. This Act may be cited as the Workmen's Compensation Act.

2. In this Act—

(*a*) "accident fund" shall mean the fund provided for the payment of compensation, medical aid, outlays, and expenses under Part 1 of this Act; (1919, c. 61, s. 1).

(*b*) "association" shall mean any association or body of employers whose constitution shall have been approved by the Board as entitling it to represent any of the classes provided for in this Act or any subdivision or group of employers in such class;

(*c*) "board" shall mean Workmen's Compensation Board;

(*d*) "construction" shall include reconstruction, repair, alteration and demolition;

(*e*) "dependents" shall mean such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death, or who but for the incapacity due to the accident would have been so dependent, but shall not include persons who become dependents by reason of the marriage of the injured workman between the date of the accident and the death of the workman resulting from such accident; (1919, c. 61, s. 2.)

(*f*) "employer" includes every person having in his service, under a contract of hiring or apprenticeship, written or oral, expressed, or implied, any person engaged in any work in or about an industry within the scope of this Act and in respect of any such industry includes Municipal Corporations, and the

Crown as represented by the Province, and may include the Crown as represented by the Dominion of Canada in so far as it may in its capacity of employer submit to the operation of this Act; (1919, c. 61, s. 2.)

(*g*) "employment" means and refers to the whole or any part of any establishment, undertaking, work, operation, trade or business within the scope of this Act, and in the case of any industry not as a whole within the scope of this Act includes any department or part of such industry as would if carried on separately be within the scope of this Act; (1917 c. 70, s. 1.)

(*h*) "industrial disease" shall mean any of the diseases mentioned in the Schedule and any other disease which by the Regulations is declared to be an industrial disease;

(*i*) "industry" shall include establishment, undertaking, work, operation, trade, and business; (1917, c. 70, s. 2).

(*j*) "invalid" shall mean physically or mentally incapable of earning;

(*k*) "member of the family" shall mean and include wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, step-daughter, brother, sister, half-brother, and half sister, and a person who stood in *loco parentis* to the workman or to whom the workman stood in *loco parentis* whether related to him by consanguinity or not so related, and where the workman is the parent or grandparent of an illegitimate child shall include such child, and where the workman is an illegitimate child shall include his parents and grandparents;

(*l*) "outworker" shall mean a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on

other premises not under the control or management of the person who gave out the articles or materials;

(*m*) "regulations" shall mean regulations made by the Board under the authority of this Act;

(*n*) "workman" shall include a person who has entered into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labour or otherwise; and in respect of the industry of mining, shall include a person while he is actually engaged in taking or attending a course of training or instruction in mine-rescue work under the direction or with the approval, expressed or implied, of an employer in whose employment the person is employed as a workman in that industry; and in respect to any industry, shall include a person while he is actually engaged in rescuing or protecting or attempting to rescue or protect life or property in the case of an explosion, a fire, or an accident, which endangers either life or property in or about the industry in which such person is employed, and should such person meet with an accident while so engaged, such accident shall be deemed to arise out of and in the course of such person's employment; (1917, c. 70, s. 3.)

(*o*) (*Repealed* 1919, c. 61, s. 3).

(*p*) "teaming" shall include all kinds of work done by workmen with teams, carts (including hand carts), drays, trucks, cabs, carriages, automobiles and other vehicles; (1917 c. 70, s. 4).

(*q*) "stevedoring" shall mean the loading or unloading of vessels or railway cars; (1917 c. 70, s. 4).

PART I.

SCOPE OF THIS PART.

3. This part shall apply to employers and workmen in or about any operations carried on in a factory, and also to employers and workmen in or about the industries of—

Manufacturing, lumbering, river driving, mining, quarrying, excavation, drilling with diamond drills, fishing, canning, printing, building, construction, engineering, transportation, navigation, stevedoring, rafting of lumber, teaming, horse shoeing, scavenging, street cleaning, handling of hides, painting, decorating, renovating, dyeing and cleaning, the operation of any railway, tramway, telegraph, cable, or telephone system, electric light or power plant or system, gas works, water works, sewers, laundries, theatres, packing houses, lumber yards, coal yards, refrigerating or cold storage plant, warehouses, elevators, boats, ships, tugs, ferries, dredges, and any public utility; and any occupation incidental to or immediately connected with any of the industries or operations mentioned in this section;

Provided that, subject to Sections 5 and 6, this part shall not apply to the following:

(*a*) persons engaged as travelling salesmen;

(*b*) persons whose employment is of a casual nature, and who are employed otherwise than for the purposes of the employer's trade or business;

(*c*) outworkers;

(*d*) persons employed by a city, town or municipal corporation, as members of a police force, or of a fire department;

(*e*) members of the family of the employer who reside with the employer.

(1917 c. 70, s. 5).
(1918 c. 45, *sections 1, 2 and 23*).

4. (Repealed 1918 c. 45, s. 3).

5. (1) Any industry or workman not within the scope of this Part by virtue of Section 3 may, on the application of the employer, be admitted by the Board as being within the scope of this Part on such terms and conditions and for such period and from time to time as the Board

may prescribe, and from and after such admission and during the period of such admission, such industry or workman shall be deemed to be within the scope of this Part.

(2) Any employer in any industry within the scope of this Part may be admitted on such terms and conditions and for such period and from time to time as the Board may prescribe as being entitled, for himself or his dependents as the case may be, to the same compensation as if such employer were a workman within the scope of this Part.

(3) Such admission may be made in such manner and form as the Board may deem adequate and proper.

6. The Board may by regulation exclude from the scope of this Part any industry or industries in which not more than a stated number (fixed by regulation) of workmen, or workmen other than temporary workmen, are employed, and may define the meaning of "temporary workmen." The Board may from time to time revoke, alter, or modify any such regulation, provided that any industry so excluded may be readmitted by the Board as being within the scope of this Part. The Board may likewise exclude the mayor, warden, clerk, treasurer, controllers, councillors, and aldermen and other officers of a city, town or municipality, and the president, vice-president, directors and other officers of any company without excluding the other persons in any industry. (1919, c. 61, s. 4.)

7. (1) Where, in any industry within the scope of this Part, personal injury by accident arising out of and in the course of employment is caused to a workman, compensation as hereinafter provided shall be paid to such workman, or his dependents, as the case may be, except where the injury—

(*a*) does not disable the workman for the period of at least seven days from earning full wages at the work at which he was employed; or

(*b*) is attributable solely to the serious and wilful misconduct of the workman, unless the injury results in death or serious and permanent disablement.

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment, and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

(3) Where compensation for disability is payable it shall be computed and be payable from the date of the disability.

8. (1) Every contract entered into in Nova Scotia whereby the relationship of employer and workman as defined by this Act arises in an industry which if carried on in Nova Scotia would be within the scope of Part 1, having regard to any regulations made by the Board for the exclusion or inclusion of any industry or industries, shall, unless there be an expressed agreement in writing to the contrary signed by the workman, be subject to and be deemed to include the following covenant on the part of the workman with his employer, which covenant shall bind the workman, his heirs, executors, administrators and assigns as effectually as if made in writing and under seal: viz:—

Workman's Covenant with Employer.

"The workman, for valuable consideration and as a condition of his being employed, covenants with the employer that, in the event of an accident happening to such workman while employed elsewhere than in Nova Scotia and while the workman and the industry carried on out of Nova Scotia in which he is so employed are within the scope of Part One of the Workmen's Compensation Act of Nova Scotia, he will accept the provisions of Part One of said Act in lieu of all rights and rights of action, statutory or otherwise, which he may have or to which he may become entitled against his employer, and that he will not commence or prosecute any action or other proceeding against his employer, by reason of such accident or any injury resulting therefrom, and that this covenant and Section 8 of the Workmen's Compensation Act may be pleaded as a bar to or otherwise made use of to defeat or

stay any action or proceeding that the workman may commence against the employer within or without Nova Scotia." (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(2) (*a*) Every contract, entered into in Nova Scotia, whereby the relationship of employer and workman as defined by this Act arises, in an industry to which this subsection is made to apply by virtue of subsection (*b*) hereof and whereby the workman agrees to perform or by virtue of which he does perform any work or services out of Nova Scotia, shall, unless there be an agreement to the contrary in writing signed by the workman, be deemed to include and be subject to the following covenant on the part of the employer with the workman, which shall bind the employer, his heirs, executors, administrators, successors, and assigns, as fully and as effectually as if executed in writing by the employer and under seal: viz,—

Employer's Covenant with Workman.

"Subject to the provisions of Section 8 of the Workmen's Compensation Act the employer, for valuable consideration and as a condition of the workman's consent to perform or of his performing work or services out of Nova Scotia, covenants with the workman that before the workman shall be required or permitted by the employer to perform any work or services out of Nova Scotia in the industries set forth in subsection (*b*) hereof, he (the employer) shall apply to the Workmen's Compensation Board of Nova Scotia to have the industry in which such workman is employed admitted as being within the scope of Part One of the Workmens' Compensation Act—if the same be not then within the scope of said Part—and that the employer shall furnish all information and pay such assessments as may be required to obtain a certificate of admission from the Board, and if such industry be so admitted or is at the time within the scope of said Part that the employer shall pay all assessments and furnish information required by the Board to keep such industry within the scope of said Part during the whole period of the workman's employment in such industry, and that if the employer refuses, neglects, or fails to perform any of the foregoing covenants, the workman, and in case of his

death his dependents, shall in the event of any accident happening to such workman while employed in such industry, out of Nova Scotia, be entitled to recover in an action from the employer an amount equal to the compensation or the capitalized amount of compensation that would be payable under said Act if the industry were within the scope of Part One of said Act at the time of the accident." (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(*b*) The foregoing subsection (*a*) hereof shall apply to the industries of "navigation" and "fishing," and then only to the work or services performed or to be performed by a workman, as an officer or member of the crew of a ship registered in Nova Scotia or operated by an employer residing or having a place of business in Nova Scotia, and for the period that the operations of the ship are confined to the making of voyages or trips between places in Nova Scotia and places in New Brunswick, or Prince Edward Island, or Newfoundland, or to the making of fishing trips or voyages from ports or places in Nova Scotia. (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(3) An industry carried on out of Nova Scotia shall be within the scope of this Part when the Board has, upon application of the employer, admitted such industry so carried on out of Nova Scotia as being within the scope of this Part and has issued a certificate to that effect, and then only during the period of and subject to the terms stated in such certificate. The admission of such industry and the granting of such certificate shall be in the discretion of the Board.

(4) (*a*) Where an accident happens while the workman is employed elsewhere than in Nova Scotia, which would entitle him or his dependents to compensation under this Part if it had happened in Nova Scotia, the workman or his dependents, as the case may be, shall be entitled to compensation under this Part if the industry carried on out of Nova Scotia at the time of the accident is within the scope of this Part by virtue of subsection (3) of this section.

(*b*) Section 11 of this Act shall apply to the dependents of such workman whose death results from such accident, and the workman or his dependents so far as they are within the jurisdiction of the Supreme Court of Nova Scotia may be restrained or enjoined from commencing or prosecuting any action or proceeding within or without Nova Scotia, and the production of a certificate from the Board that the workman and the industry, in which such workman was employed at the time of the accident, were within the scope of Part 1, shall be sufficient proof of that fact.

(5) A workman or his dependents, as the case may be, who would be entitled to compensation under this Part but for the refusal, neglect, or failure of an employer within the provisions of this section to perform the statutory covenant set forth in said section shall be entitled to recover compensation from such employer, and such employer shall be personally liable for the payment of compensation to such workman or his dependents as provided by said statutory covenant of the employer and the provisions of this Part. (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(6) This section shall not apply to such part of an industry as is carried on out of Nova Scotia nor to a workman engaged therein for the period that such industry and such workman are within the scope and operation of a Workmen's Compensation Act in force in the jurisdiction out of Nova Scotia in which such industry is carried on, and under which the workman, if injured, is required to accept the provisions of that Act in lieu of any action against the employer and under which the employer has been or may be compulsorily assessed with respect to such industry.

(7) (*a*) If notwithstanding the provisions of this section the workman or his dependents are, by the law of the country or place in which the accident happens, entitled to proceed by action or other proceedings in any court against the employer personally to recover damages or compensation against the employer in respect of such accident; or

(*b*) If in the opinion of the Board the law of such country or place is doubtful in that respect; or

(*c*) If any demand for damages has been made upon or any notice of action has been given to the employer with respect to any accident in respect of which compensation is payable under this Part; or

(*d*) If an action or other proceedings in any country or place outside of Nova Scotia has been commenced;

no compensation shall be payable under this Part in the cases mentioned in (*a*) and (*b*) of this subsection, unless an election be first made to claim compensation under the provisions of this Part in lieu of all claims and rights under the law of such other country or place, and unless such undertaking be given as the Board may require that no action or other proceeding will be commenced against the employer for damages, or to attach or levy upon any property of the employer in such country or place; and in the cases mentioned in (*c*) and (*d*) hereof any compensation that the person making such demand or commencing such action or proceeding would otherwise be entitled to under this Part, may be forfeited in whole or in part by the Board in its discretion, and the Board may pay to the employer such amount, not to exceed the amount forfeited. as was actually paid out by the employer by reason of such action or proceeding.

(8) Except as provided by this section, no compensation shall be payable under this Part where the accident to the workman happens elsewhere than in Nova Scotia, and the amount of compensation payable under this section to any person residing out of the Province at the time of the accident shall not exceed the amount that would be payable to such person under the laws of the country or place in which the accident happens. (1919, *c.* 61, *s.* 5).

(9) In the case of a non-fatal accident happening to a workman employed on board of any vessel, compensation shall not be payable under this Part, for the period that the owner of the vessel is, under the Merchant Shipping

Act and amendments thereto or otherwise, liable to defray the expenses of maintenance of the injured workman, and in the case of a fatal accident where the owner of the vessel is liable to pay the expenses of burial, such expenses shall not be payable out of the accident fund. (1917, c. 70, *s.* 23).

8A (*a*) In respect to the industry of fishing, a person who becomes a member of the crew of a ship registered in Nova Scotia under an agreement to prosecute a fishing voyage or voyages in the capacity of a sharesman, or who is described in the shipping Articles as a sharesman, or who agrees to accept in payment of his services any share or proportion of the proceeds or profits of the venture, with or without other remuneration, shall be considered and deemed to be a workman within the meaning of this Part. (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(*b*) The owners of or persons operating the ship referred to in (*a*) hereof shall be deemed to be employers within the meaning of this Part. (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(*c*) Members of the crew of such ship who are remunerated for their services in the manner mentioned in (*a*) hereof shall, for the purposes of assessments under this Part, be deemed to earn wages at the rate of $1200 a year, and in case of accident where the compensation payable depends upon the earnings or average earnings of such workman, he shall be deemed to earn at the rate of $1200 a year. (*In force January 1st,* 1920. 1919, *c.* 61, *s.* 19.)

(*d*) Assessments paid or payable in respect of such industry shall be borne wholly by the employers. (*In force January 1st,* 1920. 1919 *c.* 61, *s.* 5.)

8B. Where it appears that by the laws of any other province, country, or jurisdiction, a workman or his dependents, if resident in Nova Scotia, would be entitled in respect of death or injury in such province, country or jurisdiction to compensation (as distinguished from

damages) the Board may order that payments of compensation under this Act may be made to persons resident in such province, country, or jurisdiction in respect of any workman killed or injured in Nova Scotia; provided, however, that if the compensation payable under the laws of such other province, country, or jurisdiction be less than the compensation payable under this Part, the Board may reduce the amount of compensation accordingly. Provided that the Board may upon application grant leave from time to time to any workman, or dependent resident in Nova Scotia at the time of the accident to reside out of Nova Scotia without thereby forfeiting the right to compensation payments under this Act. Except as in this section provided, nothing in this Act shall entitle any person not resident in Nova Scotia to compensation payments under this Part with respect to an accident happening within Nova Scotia. (1919, *c.* 61 *s.* 5).

9. (1) Where an accident happens to a workman in the course of his employment in such circumstances as entitle him or his dependents to an action against some person other than his employer, the workman or his dependents if entitled to compensation under this Part may claim such compensation or may bring such action.

(2) If such workman or his dependents bring such action and less is recovered and collected than the amount of the compensation to which such workman or dependents would be entitled under this Act, such workman or dependents shall be entitled to compensation under this Part to the extent of the amount or amounts of such difference.

(3) If such workmen or dependents, or any of them have claimed compensation under this Part, the Board shall be subrogated to the position of such workman or dependent as against such other person for the whole or any outstanding part of the claim of such workman or dependent against such other person.

10. In any case within the provisions of Section 9, sub-section (1), neither the workman nor his dependents, nor the employer of such workman, shall have any right of action in respect of such accident against an employer

in any industry within the scope of this Part; and in any such case where it appears to the satisfaction of the Board that a workman of an employer in any class is injured or killed owing to the negligence of an employer or of a workman of an employer in another class within the scope of this Part, the Board may direct that the compensation awarded in such case shall be charged against the last mentioned class. (1917, *c.* 70, *s.* 9).

11. The provisions of this part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependents are or may be entitled against the employer of such workman in or by reason of any accident in respect of which compensation is payable hereunder, and no action in respect to such accident shall lie. (1916, *c.* 7,*s.* 18).

12. It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependents are or may become entitled under this Part, and every agreement to that end shall be absolutely void.

13. It shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum which the employer is or may become liable to pay intc the accident fund or otherwise under this Part, or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under this Part.

14. Unless with the approval of the Board, no sum payable as compensation or by way of commutation of any periodical payment in respect of it shall be capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative, nor shall any claim be set off against it.

15. (1) No compensation shall be payable under this Part in respect of any injury unless application for such compensation is made within one year after the occurrence of the injury.

(2) Unless a person applying for compensation establish his right thereto to the satisfaction of the Board within 15 months from the date of the accident no compensation shall be payable to him under this Part with respect to such accident. (1919 *c.* 61 *s.* 7).

(3) The foregoing sub-section shall not apply where death results from an injury, but in such case no compensation shall be payable to a dependent under this Part, unless application for such compensation is made within one year and unless the person applying for compensation establish his right thereto to the satisfaction of the Board within fifteen months after the occurrence of the death. (1920, *c.* 42 *s.* 6).

Medical Aid.

(*In force January* 1*st*, 1920).

(1919, *c.* 61, *s.* 8).

15A (1) Every workman entitled to compensation under this Part, or who would have been so entitled had he been disabled for seven days, shall be entitled during the period of thirty days from the date of the disability, to such medical and surgical aid and hospital and skilled nursing services as may be necessary as a result of the injury.

(2) In this Act "medical aid" shall mean the medical and surgical aid and hospital and skilled nursing services above mentioned.

(3) Such medical aid shall be furnished or arranged for by the Board or as it may direct or approve, and shall at all times be subject to the supervision and control of the Board, and shall be paid for by the Board out of the Accident Fund or as herein otherwise provided, and such amount as the Board may consider necessary shall be included in the assessment levied upon the employers.

(4) All questions as to the necessity, character, and sufficiency of any medical aid furnished or to be furnished shall be determined by the Board.

(5) The fees or charges for such medical aid shall be fixed and determined by the Board, and no action for any amount larger than that fixed by the Board shall lie in respect of any medical aid herein provided for.

(6) It shall not be lawful for any employer, directly or indirectly, to collect or receive or retain from any workman any contribution toward the expense of medical aid, and every person contravening this provision shall, for every such contravention, be liable to a penalty not exceeding $50. and shall also be liable, upon the order of the Board, to reimburse the workman treble the amount of any sum so collected, received, or retained, provided that it shall not be considered a contravention of this section for the employer to receive or collect a contribution from a workman under any arrangement approved by the Board.

(7) Where any employer has now established or hereafter establishes in connection with any industry carried on by him an arrangement for furnishing medical aid to his workmen which in the opinion of the Board is at least as favorable to the workmen as that herein provided for, the Board, after investigating the facts and considering the wishes of both the workmen and employer, may approve such arrangement, and pending such investigation the Board may provisionally approve such arrangement, and as long as such approval remains unrevoked such arrangement may be continued in lieu of the medical aid herein provided for, and the employer shall be entitled to such reduction in his rate of assessment as the Board shall deem just.

(*The following was added by* 1920 *c.* 42 *s.* 7).

The Board for the purpose of approving of any such arrangement may take into consideration contributions voluntarily or by agreement with workmen made by the employer to any relief or other association of which at least the majority of workmen of such employer are members. Any arrangement or practice in force on December 31st, 1919, and which has since been continued for providing medical aid for workmen in any industry although at the expense of workmen may be temporarily continued

unless otherwise ordered by the Board pending the adoption of such arrangement as may meet with the approval of the Board, and while such temporary arrangement or practice is so continued the Board shall not be liable to furnish medical aid to any workmen entitled to medical aid under such arrangement or practice. This section shall be effective as of January 1st, 1920.

(8) Nothing in this Act shall affect any obligation upon the employer under any other Statute or any regulation made thereunder.

(9) Employers in any industries in which it is deemed proper may be required by the Board to maintain as may be directed by the Board such first aid appliances and services, and such transportation for an injured workman, as the Board may direct, and the Board may make such order or regulation respecting the same and how the expense thereof shall be borne as may be deemed just.

(10) Where in conjunction with or apart from the medical aid to which workmen are to be entitled free of charge, further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from workmen is, or would be one prohibited by this Act shall be determined by the Board.

(11) Every physician, surgeon, and hospital official attending, consulted respecting, or having the care of any workman, shall furnish to the Board from time to time, without additional charge, such reports as may be required by the Board in respect of such workman.

(12) In the case of any workman employed as a master, mate, engineer, seaman, sailor, steward, fireman, or in any other capacity on board of any vessel on which duty has been paid or is payable for the purpose of the Sick Mariner's Fund under Part V of the "Canada Shipping Act" being Chapter 113 of the "Revised Statutes of Canada 1906" the provisions of subsections (1) to (5) shall not apply to such workman during the period in respect of which such duty has been paid or is payable, or during which the workman is entitled to medical and surgical attendance and other treatment under said Act.

(13) It shall not be lawful for a physician, surgeon, or other person, entitled to be paid by the Board under this Part for any services performed or for any medicines or materials supplied, to make any charge or claim against the injured workman, the employer, or any person, other than the Board, for such services, medicines, or materials. (1919, *c.* 61 *s.* 8).

THE WORKMEN'S COMPENSATION BOARD

16. There is hereby constituted a commission for the administration of this Part to be called "The Workmen's Compensation Board," which shall consist of three members to be appointed by the Governor-in-Council, and shall be a body corporate.

17. (1) One of the commissioners shall be appointed by the Governor-in-Council to be the chairman of the Board, and he shall hold that office while he remains a member of the Board, and another of the commissioners shall be appointed by the Governor-in-Council, vice-chairman of the Board.

(2) In the absence of the chairman, or in case of his inability to act, or if there is a vacancy in the office the vice-chairman may act as and shall have all the powers of the chairman.

18. (1) In the case of the death, illness, or absence from Nova Scotia of a commissioner or of his inability to act from any cause, the Governor-in-Council may appoint some person to act *pro tempore* in his stead, and the person so appointed shall have all the powers and perform all the duties of a commissioner.

(2) Sub-section (1) shall apply in the case of the chairman of the Board as well as in the case of any other member of it.

19. Where the vice-chairman appears to have acted for or instead of the chairman, it shall be conclusively presumed that he acted for one of the reasons mentioned in the next preceding sub-section.

20. Each commissioner shall, subject to Section 21, hold office during good behavior, but may be removed at any time for cause.

21. Unless otherwise directed by the Governor-in-Council, a commisioner shall cease to hold office when he attains the age of 75 years.

22. The salary of the chairman, of the vice-chairman and of the other commissioner shall be determined by the Governor-in-Council, and such salaries shall be payable out of the Provincial revenue.

23. The presence of two commissioners shall be necessary to constitute a quorum of the Board.

24. A vacancy on the Board shall not, if there remain two members of it impair the authority of such two members to act.

25. The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things.

26. The offices of the Board shall be situated in the City of Halifax, and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Nova Scotia.

27. The Commissioners shall sit at such times and conduct their proceedings in such manner as they may deem most convenient for the proper discharge and speedy dispatch of business.

28. (1) The Board shall appoint a secretary and a chief medical officer, and may appoint such auditors, actuaries, accountants, inspectors, officers, clerks and servants as the Board may deem necessary for carrying out the provisions of this part, and may prescribe their duties, and, subject to the approval of the Governor-in-Council, may fix their salaries and pay the same out of the accident fund.

(2) Every person so appointed shall hold office during the pleasure of the Board.

29. (1) The Board may act upon the report of any of its officers, and any inquiry which it shall be deemed necessary to make may be made by any one of the commissioners or by an officer of the Board or some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(2) The person appointed to make the inquiry shall for the purposes of the inquiry have all the powers conferred upon the Board by Section 25.

30. (1) The Board shall have jurisdiction to inquire into, hear and determine all matters and questions of fact and law necessary to be determined in connection with compensation payments and the administration thereof and the collection and management of the funds therefor.

(2) The Board may in its discretion invest any funds arising under any provisions of this Part, and under its control, in any securities which are under the "Trustee Act" a proper investment for trust funds.

(3) The funds, investments and income of the Board shall be free from every form of taxation. (1918, *c.* 45, *s.* 4.)

31. (1) Except as stated in sub-sections (2) and (5) of this section, the decisions and findings of the Board upon all questions of law and fact shall be final and conclusive, and in particular, but not so as to restrict the generality of the powers of the Board hereunder, the following shall be deemed to be questions of fact—

(*a*) The question whether an injury has arisen out of or in the course of an employment within the scope of this Act;

(*b*) The existence and degree of disability by reason of any injury;

(*c*) The permanence of disability by reason of any injury;

(*d*) The degree of diminution of earning capacity by reason of any injury;

(*e*) The amount of average earnings;

(*f*) The existence of the relationship of a member of the family as defined by this Act. (1918, *c.* 45, *s.* 5.)

(*g*) The existence of dependency;

(*h*) The character, for the purpose of this Act, of any employment, establishment or department and the class to which such employment, establishment or department should be assigned;

(*i*) Whether or not any employee in any industry within the scope of this Part is within the scope of this Part and entitled to compensation thereunder.

(2) An appeal shall lie to the Supreme Court *in banco* from any final decision of the Board upon any question as to its jurisdiction or upon any questions of law, but such appeal can be taken only by permission of a judge of the said court, given upon a petition presented to him within fifteen days after the rendering of the decision, and upon such terms as said judge may determine. Notice of such petition shall be given to the Board, at least two clear days before the presentation of such petition.

(3) Where an appeal has been granted, the appeal shall be brought by notice served on the chairman or vice-chairman of the Board within ten days after the permission to appeal has been granted. The notice shall contain the names of the parties and the date of the order appealed from, and such other particulars as the judge granting the appeal may require.

(4) On the hearing of such appeal any association representing a class interested in the result of the case shall be entitled to appear and be heard.

(5) The Board may of its own motion state a case in writing for the opinion of the Supreme Court *in banco* upon any question which in the opinion of the Board is a question of law.

(6) The Supreme Court shall hear and determine the question or questions of law arising thereon and remit the matter to the Board, with the opinion of the Court thereon.

(7) No costs shall be awarded in any appeal or case stated under this section.

32. The accounts of the Board shall be audited by an auditor appointed by the Governor-in-Council for that purpose, and the salary or remuneration of such auditor shall be fixed by the Governor-in-Council and paid by the Board. (1918, *c.* 45, *s.* 6.)

33. The Board shall on or before the 1st day of March in each year make a report to the Provincial Secretary of its transactions during the next preceding calendar year, and such report shall contain such particulars as the Governor-in-Council may prescribe.

34. (1) All expenses incurred in the administration of this Part shall be paid out of the accident fund.

(2) To assist in defraying the expenses incurred in the administration of this Part, there shall be paid to the accident fund out of the Provincial treasury such annual sum, not exceeding $25,000, as the Governor-in-Council may direct.

SCALE OF COMPENSATION

(From and after October 1st, 1920)

(1920, *c.* 42, *s.* 4.)

35. (1) Where death results from an injury, the amount of compensation shall be—

(a) The necessary expenses of the burial of the workman, not exceeding $75.00;

(b) Where the widow or an invalid widower is the sole dependent, a monthly payment of $30.00; (1920, c. 42, s. 1.)

(c) Where the dependents are a widow or an invalid widower and one or more children, a monthly payment of $30.00, with an additional monthly payment of $7.50 for each child under the age of 16 years, not exceeding in the whole $60.00; (1920, *c.* 42, *s.* 1.)

(d) Where the dependents are children, a monthly payment of $15.00 to each child under the age of 16 years, not exceeding in the whole $60.00. (1920, *c.* 42, *s.* 1.)

(e) Where no compensation is payable under (b), (c) or (d), and persons other than those mentioned in the foregoing clauses are dependents, a sum reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death, to be determined by the Board, but not exceeding $30.00 per month to a parent or parents, and not exceeding in the whole $45.00 per month; (1920, *c.* 42, *s.* 1.)

(f) Where compensation is payable to or for a child under (c) or (d) or under Section 37, subsection (2), no additional compensation shall be payable with respect to such child by reason of the subsequent death from an injury, of any person upon whom such child was wholly or partly dependent. (1920, *c.* 42, *s.* 1.)

(2) In the case provided for in clause (*e*) of subsection (1), the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependents.

(3) Where there are both total and partial dependents the compensation may be allotted partly to the total and partly to the partial dependents.

(4) Exclusive of the expenses of burial, the compensation payable as provided by sub-section (1) shall not in any case exceed 55 per cent. of the average earnings of the workman, and if the compensation payable under that subsection would in any case exceed that percentage it shall

be reduced accordingly and where several persons are entitled to monthly payments the payments shall be reduced proportionately. (1920, *c.* 42, *s.* 2.)

(4½) The foregoing sub-section (4) shall not apply to compensation payable under clauses (b), (c) or (d) of said sub-section (1) provided however, that the dependents of a workman whose death results from an injury received while in the employ of an incorporated company shall not be entitled to compensation in excess of that provided by the foregoing sub-section (4) if

(a) such workman at the time of the accident was an officer and also a shareholder of such incorporated company, or

(b) if a majority of the shares of such incorporated company was owned at the time of the accident directly or indirectly by such workman or by the workman and any members of his family, or by any members of his family.

This sub-section (4½) shall be deemed to have been in force since January 1st, 1920. (1920, *c.* 42 *s.* 2).

(5) Where death results from an injury, or after an injury from any cause, any compensation payable with respect to any portion of the period between the date of the injury and the date of the death may be paid by the Board to the widow or to such of the dependents of the deceased workman as the Board may deem advisable, and in case of minors or persons of unsound mind, payment may be made as provided in Section 44. (1917, *c.* 70, *s.* 10.)

(6) Any compensation payable to a dependent who dies before such compensation is paid may be paid to such member or members of the family of the deceased dependent, or to such person or persons caring or providing for the deceased dependent prior to his or her decease, as the Board may deem advisable. (1919 *c.* 61 *s.* 10).

36. (1) If a dependent widow marries, her right to compensation under (b) or (c) of sub-section (1) of Section 35 shall cease, but she shall be entitled to $20.00 a

month for a period of 25 months from the date of the marriage, or, in the discretion of the Board, to be paid an amount equal to such payments in one or more amounts, payable during the said 25 months; and upon payment of same all payments of compensation to her shall cease. (*In force October 1st,* 1920.) (1920, *c.* 42, *s.* 3 *and* 4.)

(2) Sub-section (1) shall not apply to payments to a widow in respect of a child.

37. (1) Payments in respect of a child shall cease when the child attains the age of 16 years or dies.

Compensation shall be payable to an invalid child without regard to the age of such child, and payments to such child shall continue so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of such child. (1917, *c.* 71, *s.* 2).

(2) Where a payment to any one of a number of dependents ceases, the remaining dependents shall be entitled to receive the same compensation as though they had been the only dependents at the time of the death of the workman.

This sub-section shall not apply where a payment ceases by reason of the remarriage of a widow. (1918 *c.* 45, s. 7).

37A. Persons entitled immediately before October 1st, 1920, to compensation under clauses (b), (c) or (d) of sub-section (1) of Section 35, or under Sections 36, 37, sub-section (2), of said Chapter 1 of the Acts of 1915, as amended prior to the passing of this Act, shall, on and after October 1st, 1920, be entitled to compensation as provided by this Act, but except as aforesaid and as provided by the new sub-section (4½) to said Section 35 added by Section 2 hereof, this Act shall not apply so as to increase or decrease the compensation payable to any person whose right to compensation arose prior to October 1st, 1920. (1920, *c.* 42, *s.* 5.)

38. Where permanent total disability results from the injury the amount of the compensation shall be a periodical payment during the life of the workman equal to 55 per cent. of his average earnings. (1917 *c.* 70, *s.* 12).

(2) The compensation awarded under this section shall not be less than an amount equal to five dollars per week, unless the workman's average earnings are less than five dollars per week, in which case he shall receive compensation in an amount equal to his average earnings. The reference to Section 38 in sub-section (1) of Section 40 shall not include this sub-section. (1917, *c.* 71, *s.* 1, *and* 1919, *c.* 61, *s.* 13.)

39. (1) Where permanent partial disability results from the injury, the compensation shall be a periodical payment of such amount as the Board considers represents 55 per cent of the difference in the earning capacity of the workman before the accident and his earning capacity after the accident, having regard to the degree of disability, the age of the workman, and his average earnings at the time of the accident, and shall be payable during the lifetime of the workman. (1919, *c.* 61, *s.* 12).

(2) Notwithstanding the provisions of sub-section (1), where in the circumstances the amount which the workman was able to earn before the accident has not been diminished, the Board may, nevertheless, recognize an impairment of earning capacity. (1919, *c.* 61, *s.* 12, *and* 1920, *c.* 42, *s.* 9.)

40. (1) Where temporary total disability results from the injury, the compensation shall be the same as that prescribed by Section 38, but shall be payable only so long as the disability lasts.

(2) Where temporary partial disability results from the injury the compensation shall be a periodical payment of 55 per cent. of the difference between the average earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident and shall be payable so long as the disability lasts. (1919, *c.* 61, *s.* 13).

41. "Average earnings" and "earning capacity" shall mean and refer to the average earnings or earning capacity at the time of the injury, and may be calculated

upon the daily, weekly or monthly wages or other regular remuneration, which the workman was receiving at the time of the injury, or upon the average yearly earnings of the workman for three years prior to the injury, or upon the probable yearly earning capacity of the workman at the time of the injury as may appear to the Board best to represent the actual loss of earnings suffered by the workman by reason of the injury, but not so as in any case to exceed the rate of $1200 per year.

42. (1) In fixing the amount of a weekly or monthly payment regard shall be had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity, or other allowance provided wholly at the expense of the employer.

(2) Where compensation is payable, any sum deducted from the compensation under sub-section (1) may be paid to the employer out of the accident fund.

43. (1) Where any workman or dependent is entitled to compensation under this Part he shall file with the Board an application for such compensation, together with the certificate of the attending physician, if any, and such further or other proofs of his claim as may be required by the Board.

(2) It shall be the duty of every physician or surgeon attending or consulted upon any case of injury to any workman to furnish or cause to be furnished from time to time such reports, and in such form as may be required by the Board in respect of such injury.

(3) It shall also be the duty of every physician in attendance upon any injured workman to give all reasonable and necessary information, advice and assistance to enable such workman or his dependents, as the case may be, to make application for compensation, and to furnish such proofs as may be required by the Board.

(4) It shall be the duty of every employer, within three days after the happening of an accident to a work-

man in his employment by which the workman is disabled from earning full wages, to notify the Board in writing of the—

(*a*) happening of the accident and nature of it;

(*b*) time of its occurrence;

(*c*) name and address of the workman;

(*d*) place where the accident happened;

(*e*) name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury;

(*f*) any other particulars required by the Board. (1917, *c.* 70, *s.* 13.)

(5) It shall be the duty of the employer to make such further and other reports respecting such accident and workman as may be required by the Board.

44. (1) Payments of compensation shall be made in such manner and in such form as may appear to the Board to be most convenient, and in the case of minors or persons of unsound mind, payments may be made to such persons as, in the opinion of the Board, are best qualified in all the circumstances to administer such payment, whether or not the person to whom the payment is made is the legal guardian of such minor or person of unsound mind.

(2) If a person entitled to compensation is committed to an insane asylum or to any jail or prison, compensation shall not be payable for the period of confinement therein, provided that the Board may pay the whole or any part of the compensation so witheld, to any dependent or dependents of the person so confined, and provided that in the case of a person committed to prison for an indictable offence compensation may at the discretion of the Board be entirely forfeited. (1919, c. 61, s. 14.)

45. (1) The Board may, in its discretion, commute the whole or any part of the payments due or payable to the workman or any beneficiaries for a lump sum in lieu of such payments to be applied as directed by the Board.

(2) The Board may, in its discretion, instead of paying any compensation payable in a lump sum, divide the compensation into periodical payments.

(3) Where in any case, in the opinion of the Board, it will conserve the accident fund to provide a special surgical operation or other special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for disability, the expense of such operation or treatment may be paid out of the accident fund. (1917, *c.* 70, *s.* 14.) (1919, *c.* 61, *s.* 6.)

46. (1) The Board may re-open, re-hear re-determine, review or re-adjust any claim, decision, or adjustment either because an injury has proven more serious or less serious than it was deemed to be, or because a change has ocurred in the condition of a workman or in the number, circumstances or condition of dependents or otherwise.

And in any case where the Board is of opinion that any person entitled to compensation under this Part is leading an immoral or improper life, the Board shall have power, after due investigation, to withold or suspend compensation for such period as the Board deems proper. Where compensation is so witheld or suspended, it shall be paid to the other dependents, if any, or to such of the other dependents as the Board deems advisable. (1917, *c.* 70, *s.* 15.)

(2) The Board may withold compensation payable to a parent with respect to the death of any child under the age of 14 years where the employment of such child was unlawful by virtue of any statute. (1918, *c.* 45, *s.* 9.)

47. Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident, the amount of a periodical payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what, if he had not been injured, he would probably have been earning at the date of the review.

48. (1) The Board may from time to time require that any workman applying for or receiving compensation payments shall submit to medical examination by the Board or its duly appointed officers; and in default of such requirement being complied with, may withold such compensation payments.

(2) The Board may require such proof from time to time of the existence and condition of any dependents in receipt of compensation payments as may be deemed by the Board necessary.

ACCIDENT FUND AND ASSESSMENTS.

49. The compensation provided for in this Act shall be paid out of a fund to be called "The Accident Fund."

50. For the purpose of creating and maintaining the accident fund, all industries within the scope of this Part shall, subject to Sections 51 and 52, be divided into the following classes— (1917, *c.* 70, *s.* 16.)

Class 1.—Lumbering, logging, saw-mills, manufacture of pulp or paper.

Class 2.—Wood-working, planing mills, furniture factories, piano or organ factories, cooperage.

Class 3.—Coal mining.

Class 4.—Mining (other than coal), reduction of ores and smelting, quarrying, manufacture of brick or lime.

Class 5.—Manufacture of iron and steel, and iron and steel products.

Class 6.—Car-shops, manufacture of vehicles.

Class 7.—Manufacture of compounds, paints, chemicals, liquors or beverages.

Class 8.—Manufacture of leather, leather goods, rubber or rubber goods.

Class 9.—Flour-milling and handling of grain; canning· pork-packing; manufacture of food products; tobacco and tobacco products.

Class 10.—Manufacture of cloth, textiles and clothing.

Class 11.—Printing, lithographing, engraving; manufacture of stationery.

Class 12.—Teaming, cartage, warehousing and storage.

Class 13.—Construction of buildings and wooden ships; mason work, structural carpentry, plumbing and painting.

Class 14.—Steel erection, steel bridge building, steel ship building.

Class 15.—Road-making, sewer construction, excavation.

Class 16.—Sub-aqueous construction, dredging, pile-driving.

Class 17.—Construction and operation of electric railways, electric power lines and appliances.

Class 18.—Construction and operation of telegraphs and telephones.

Class 19.—Construction and operation of steam railways.

Class 20.—Navigation and stevedoring.

51. The Board may by regulation re-arrange any of the classes mentioned in Section 50 or withdraw from any class, any industry or group of industries included therein, and transfer such industry or group of industries to any other class, or form it into a separate class or may make new classes, or exclude any industry from the operation of Part 1, or add any industry to those mentioned in Section 3. (1917, *c.* 70, *s.* 17.)

52. The Board shall assign every industry within the scope of this Part to its proper class; and where any

industry includes several departments assignable to different classes, the Board may either assign such industry to the class of its principal or chief department, or may, for the purpose of this Act, divide such industry into two or more departments, assigning each of such departments to its proper class.

53. (*Repealed by* 1918, *c.* 45, *s.* 10.)

54. (1) The Board shall every year assess and levy upon and collect from the employers in each class by an assessment rated upon the payroll, or otherwise as the Board may deem proper, sufficient funds to meet all claims payable during the year and in case of refusal or neglect to furnish a pay roll, statement or estimate, the Board shall have power to make its own estimate of the amount of the pay roll of such employer for the purpose of making a provisional assessment. (1917, *c.* 70, *s.* 18).

(2) The Board may fix an amount not to exceed $5.00 as the minimum amount of any assessment made under this Part upon any employer with respect to any industry carried on by him during any calendar year. (1919, *c.* 61, *s.* 15).

55. Separate accounts shall be kept of the amounts collected and expended in respect of every class and of every fund set aside by way of reserve, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

56. (1) The Board may, in addition to the amount actually required in each class for the year, assess, levy and collect from any class or classes a surcharge or surcharges to be set aside as a reserve or reserves—

(*a*) by way of providing a contingent fund in aid of industries or classes which may become depleted or extinguished; or

(*b*) by way of providing a sinking fund for the capitalization of periodical compensation payments payable in future years; or

(*c*) by way of setting up a reserve fund for the equalizing of assessments; or

(*d*) for the purpose of raising a special fund to be used to meet the loss arising from any disaster or other circumstance which in the opinion of the Board would unfairly burden the employers in any class.

(2) The Board may, in respect of any industry or class where it is deemed expedient, assess, levy and collect in each year a sufficient amount to provide capitalized reserves which shall be deemed sufficient to meet the periodical payments accruing in future years in respect of all accidents during such year.

(3) Upon any such change being made as provided in Section 52, the Board may make such adjustment and disposition of the funds, reserves and accounts of the classes affected as may be deemed just and expedient.

57. (1) Every employer shall pay into the accident fund such assessments as may be levied by the Board, and if any assessment or any part thereof is not duly paid in accordance with the terms of the levy, the Board shall have a right of action against the employer in respect of any amount unpaid, together with costs of such action.

(2) Assessments may be made in such manner and form, and at such times and by such procedure as the Board may deem adequate and expedient, and may be general as applicable to any class or sub-class, or special as applicable to any industry or part or department of an industry. (1918, *c.* 45, *s.* 11).

(3) Where an employer engages in any industry within the scope of this Part, the Board, if of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum, which in the opinion of the Board will be sufficient to pay all assessments that the Board may make with respect to such industry, and the payment of such amount may be enforced as provided by Section 68. (1918, *c.* 45, *s.* 12).

(4) In any case where an employer makes default in the payment of an assessment, and an execution issued upon a judgment, entered with respect to such assessment, is returned with a certificate from a sheriff or his deputy that he was unable to wholly satisfy the same, and the judgment debtor continues to carry on an industry within the scope of this Part in which workmen are employed, any judge of the Supreme Court, upon an application made on behalf of the Board by Chambers Summons without the issue of any writ or the commencement of any action, may restrain such judgment debtor from carrying on any industry within the scope of this Part until the amount due on such execution and all assessments made by the Board and the costs of the application be paid. (1918, *c.* 45, *s.* 13).

58. The Board shall give notice to each employer, in such manner as may be deemed by the Board proper and sufficient, of the amount of the assessments due from time to time in respect of his industry or industries, and the time or times when such assessments are due and payable.

59. Notwithstanding any provision of this Part respecting estimates of pay-rolls and notice to employers, it shall be the duty of every employer without demand from the Board, to cause to be paid to the Board the full amount of every assessment assessed or levied in accordance with this Part, in respect to workmen in his employ within the scope of this Part.

60. The Board may establish such sub-classifications. differentials and proportions in the rates as between the different kinds of employment in the same class as may be deemed just; and where any particular industry is shown to be so circumstanced or conducted that the hazard is greater than the average of the class to which such industry is assigned, the Board may impose upon such industry a special rate, differential or assessment, to correspond with the excessive hazard of such industry.

61. If in any class the estimated assessment shall prove insufficient, the Board may make such further assessments and levies as may be necessary, or may tem-

porarily advance the amount of any deficiency out of any reserve, and may add such amount to any subsequent assessment or assessments.

62. Assessments may, wherever it is deemed expedient, be collected in half-yearly, quarterly or monthly instalments, or otherwise; and where it appears that the funds in any class are sufficient for the time being, any instalment may be abated or its collection deferred.

63. In each year, as soon as the necessary information is obtained, the amount of the assessment for the preceding calendar year shall be adjusted upon the actual requirements of the class and upon the correctly ascertained payroll of each industry, and the employer shall upon demand of the Board forthwith make up and pay to the Board any deficiency, or the Board shall refund to the employer any surplus, or credit the same upon the succeeding assessment as the case may require. (1918, *c.* 45, *s.* 14.)

64. Where in any industry a change of ownership or employership has occurred, the Board may levy any part of such deficiency or the amount due upon any assessment on either or any of such successive owners or employers, or pay or credit to any one or more of such owners or employers such surplus as the case may require, but as between or amongst such successive owners or employers the assessment in respect of such employment shall in the absence of an agreement between the respective owners or employers determining the same, be apportionable, as nearly as may be, in accordance with the proportions of the payrolls of the respective periods of ownership or employment. (1918, *c.* 45, *s.* 15).

65. In computing and adjusting the amount of the payroll of any industry, regard shall be had only to such portion of the payroll as represents workmen and work within the scope of this Part, but the Board may by regulation exclude the salary or wages of any officer in excess of an amount to be stated in such regulation. (1918, *c.* 45, *s.* 16). (1919, *c.* 61 *s.* 16).

66. (1) Every employer shall, on or before a date to be fixed by the Governor-in-Council, or whenever thereafter he shall have become an employer within the meaning of this Act, or whenever required from time to time by the Board so to do, cause to be furnished to the Board an estimate or estimates of the probable amount of the payroll of each of his industries within the scope of this Part, together with such further and other information as may be required by the Board for the purpose of assigning such industry to the proper class or classes, and of making the assessments hereunder, and shall likewise at or after the close of each calendar year, or at such other times as may be required by the Board, furnish certified copies or reports of his payroll or payrolls, verified by statutory declaration, for the purpose of enabling the Board to adjust and compute the amount of the assesment as provided in Section 65.

(2) The assessors appointed under the Assessment Act and the board of assessors for every city, shall yearly within ten days after the completion of the assessment roll, make a return to the Board upon forms provided by the Board for the purpose, showing the names, addresses, nature of business, and usual number of employees, if known, of all employers of labor carrying on any industry or business, other than a farming or mercantile business, within the district of such assessor, and any other information the Board may require. (1917, *c.* 70, *s.* 22).

(3) Within three days after the granting of any building permit in any municipality, city or town, written notice thereof shall be given to the Board by the person whose duty it is to keep a record of such permits. (1917, *c.* 70, *s.* 22).

(4) Every employer shall keep in such form and with such detail as may be required for the purposes of this Act, a careful and accurate account of all wages paid to his employees. And such account shall be kept within the province and shall be produced to the Board or its officers when required. (1917, *c.* 70, *s.* 22). (1919, *c.* 61, *s.* 17).

(5) Upon the refusal, neglect or failure of an employer to furnish verified copies or reports of his payroll as

required by this section, or such statements as the Board may require of the actual amount of wages paid and other allowances made to workmen, verified by statutory declaration, or if the employer refuses, neglects or fails to keep or to produce for inspection or for the purpose of being audited, proper and sufficient accounts of all wages paid and other allowances made to workmen, the Board, in addition to any penalty for which the employer may be liable may of its own motion make an estimate of the amount of such wages and other allowances, and such estimate of the Board shall, except in so far as the Board may revise or change same, be final and conclusive for the purpose of making any assessment or of adjusting the amount that such employer should pay. (1919, *c.* 61, *s.* 17).

(6) Every person, though not an employer, or not an employer carrying on an industry within the scope of this Part, shall, whenever required, make a return to the Board stating whether he has or has not employed workmen during any period, since January 1st, 1917, that the Board may designate, and if he has employed workmen, he shall state in such return the nature of the industry in which they were employed, and furnish such other information as the Board may require. (1919, *c.* 61, *s.* 17).

67. (1) If an assessment or a special assessment is not paid at the time when it becomes payable the defaulting employer shall be liable to pay and shall pay as a penalty for his default such a percentage upon the amount unpaid, as may be prescribed by the regulations or may be determined by the Board, and such percentage may be added to the amount of the assessment and payment enforced as provided by Section 68. (1918, *c.* 45, *s.* 17).

(2) Any employer who refuses or neglects to make or transmit any payroll return or other statement required to be furnished by him under the provisions of Section 66, or who refuses or neglects to pay any assessment, special or supplementary assessment, or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compen-

sation payable in respect of any accident to a workman in his employ which happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

(3) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section.

68. Where default is made in the payment of any assessment or any part thereof, or where it is provided by any other section of this Part that an amount or payment may be recovered or enforced in the same manner as an assessment or as provided by Section 68, the Board may issue its certificate, stating that the asssessment was made, or the matter with respect to which the amount is due or payable, the amount remaining unpaid on account thereof, and the person by whom it was payable, and such certificate, or a copy of it certified by the Secretary of the Board to be a true copy, may be filed with a Clerk of any County Court, or with any Prothonotary of the Supreme Court, and when so filed and sealed with the seal of such Court shall become an order of that Court, upon which judgment may be entered against such person for the amount mentioned in the certificate, together with the fees of the clerk or prothonotary allowable in the case of a default judgment, and such judgment may be enforced by execution or otherwise as any other judgment of the Court, and such Courts shall have jurisdiction with respect to the amount mentioned in such certificate whatever it may be. (1918, *c.* 45, *s.* 18).

69. The Board and any member of it, and any officer of the Board or person authorized by it for that purpose, shall have the right to examine the books and accounts of the employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under the provisions of Section 66 is an accurate statement of the matters which are required to be stated therein or of ascertaining the amount of the payroll of any employer or of ascertaining whether any industry or person is under the operation of this Part.

70. Every member of the Board and every officer or person authorized by it to make any examination or inquiry under this Act shall have power and authority to require and to take affidavits, affirmations or declarations as to any matter of such examination or inquiry, and to take statutory declarations required under Section 66, and in all such cases to administer oaths, affirmations, and declarations and certify to the same having been made.

71. The Board and any member of it and any officer or person authorized by it for that purpose, shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund, and the premises connected with it, and every part of them, for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient, and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises, and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

72. No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the Board, any information obtained by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

LIABILITY FOR ASSESSMENTS.

73. Where any work within the scope of this Part is performed under contract for any municipal corporation or public service commission, any assessment in respect of such work may be paid by such corporation or commission as the case may be, and the amount of such assessment may be deducted from any moneys due the contractor in respect of such work. (1918, c. 45, s. 19).

74. (1) Where any work within the scope of this Part is undertaken for any person by a contractor, both the contractor and the person for whom such work is undertaken shall be liable for the amount of any assessment in respect thereof, and such assessment may be levied upon and collected from either of them or partly from one and partly from the other; provided that in the absence of any term in the contract to the contrary the contractor shall, as between himself and the person for whom the work is performed, be primarily liable for the amount of such assessment.

(2) Where any work within the scope of this Part is performed under sub-contract, both the contractor and the sub-contractor shall be liable for the amount of the assessments in respect of such work; and such assessments may be levied upon and collected from either, or partly from one and partly from the other; provided that in the absence of any term in the sub-contract to the contrary, the sub-contractor shall be primarily liable for such assessments. (1917, *c.* 70, *s.* 20).

(3) Any contractor or sub-contractor who is not assessed with respect to the work carried on by him as such contractor or sub-contractor and the workmen of such contractor or sub-contractor may be considered workmen of the principal with respect to any industry within the scope of this Part. (1918, *c.* 45, *s.* 20).

Provided that in the absence of any term in the contract or sub-contract to the contrary, the principal shall be entitled to recover from the contractor and the contractor from the sub-contractor the amount or proportionate part of any assessment paid by the principal with respect to the contractor or his workmen or paid by the contractor in respect to a sub-contractor or his workmen. (1920, *c.* 42, *s.* 10).

75. In the case of a work or service performed by an employer in any of the industries within the scope of this Part, for which the employer would be entitled to a lien under the Mechanic's Lien Act, it shall be the duty of the owner as defined by that Act to see that any sum which the

employer is liable to contribute to the accident fund is paid, and if any such owner fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

76. (1) There shall be included among the debts which under "The Assignments Act," "The Companies' Winding Up Act," and "The Trustee Act," are, in the distribution of the property in the case of an assignment or death or in the distribution of the assets of a company being wound up under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment the liability wherefor accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts shall have effect accordingly.

(2) The amount of any assessment and any judgment with respect to same shall be a first lien upon all the property, real, personal, or mixed, used in or in connection with the industry with respect to which the employer is assessed, subject only to municipal taxes, and the amount levied under execution upon any such judgment to the extent of the amount due upon such execution shall forthwith be paid by the sheriff or his deputy to the Workmen's Compensation Board. This sub-section shall apply to all assessments made or payable after January 1st, 1917. (1918, *c.* 45, *s.* 21).

(3) The words "amount of any assessment and any judgment with respect to same," in the first and second lines of the foregoing sub-section (2), shall include any percentage payable under the authority of Section 67, subsection (1) of Chapter 1 of the Acts of 1915, as amended by Section 17 of Chapter 45 of the Acts of 1918, and the amount due upon any judgment entered in the manner provided by Section 68 of Chapter 1 of the Acts of 1915 as amended by Section 18 of Chapter 45 of the Acts of 1918. (1919, *c.* 61, *s.* 18).

77. The Board may make such regulations as may be deemed requisite for the due administration and carrying

out of the provisions of this Part, and may prescribe the form and use of such payrolls, records, reports, certificates, declarations and documents as may be requisite. (1917, c. 70, s. 21).

78. The Board may prescribe penalties for the violation of any of the provisions of this Act, or for the breach of any rules, regulations or orders made under the authority of this Act, provided that such penalties shall be approved by the Governor-in-Council.

79. The penalties imposed by or under the authority of this Part shall be recoverable under the Summary Convictions Act or by an action brought by the Board, in any court of competent jurisdiction, and such penalties when collected shall be paid over to the Board, and shall form part of the accident fund.

ASSOCIATIONS

80. (1) Where any Association shall make rules for the prevention of accidents in the industry or industries represented by such Association, such rules shall, if approved by the Board, be binding on all the employers included in the class, sub-class or group represented by such Association whether or not such employers are members of such Association.

(2) Where an Association under the authority of its rules, appoints one or more inspectors ,engineers or experts for the purpose of accident prevention, the Board may pay the salary and necessary expenses of any such inspector, engineer or expert out of the accident fund and charge the same to the account of the proper class, sub-class or group.

(3) The Board may on the application of any Association make an allowance to such Association to meet any expenses of such Association and pay such allowance out of the accident fund and charge the same to the account of the class, sub-class or group represented by such Association.

INDUSTRIAL DISEASES

81. (1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed, or his death is caused by an industrial disease, and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disablement, whether under one or more employments, the workman or his dependents shall be entitled to compensation as if the disease were a personal injury by accident and the disablement were the happening of the accident, subject to the modifications hereinafter mentioned, unless at the time of entering into the employment he had wilfully and falsely represented himself as not having previously suffered from the disease.

(2) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of the Schedule hereto and the disease contracted is the disease in the first column of the schedule set opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

(3) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply, if the disease is the result of an injury in respect of which he is entitled to compensation under this Part.

82. The provisions of this Part relating to the organization of the Board, the classification of industries, and levying and collecting of assessments, or any of them, shall become effective from and after a day to be named in a proclamation by the Governor-in-Council: the provisions of this Part respecting the payment of compensation and the right of the workman thereto shall become effective from and after a day to be named in any subsequent proclamation by the Governor-in-Council, and compensation shall be payable in respect of injuries occurring on and after the day named in such last mentioned proclamation, on which day also the Workmen's Compensation Act,

Chapter 3 of the Acts of 1910, and amendments thereto, shall stand repealed.

83. This Part shall not apply to farm laborers, or domestic or menial servants or their employers.

PART II.

84. Subject to Section 88, Sections 85 to 87, shall apply only to the industries to which Part 1 does not apply and to the workmen employed in such industries.

85. (1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer, or any person in the service of his employer, acting within the scope of his employment, the workman, or if the injury results in death the legal personal representative of the workman and any person entitled in case of death, shall have an action against the employer, and if the action is brought by the workman he shall be entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under the Fatal Injuries Act, they shall be entitled to recover such damages as they are entitled to under that Act.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, building or premises, and by reason of any defect in the condition or arrangement of them, personal injury is caused to a workman employed by the contractor or by any sub-contractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done shall be liable to the action as if the workman had been employed

by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or sub-contractor shall be liable to the action as if this sub-section had not been enacted, but not so that double damages shall be recoverable for the same injury.

(3) Nothing in sub-section (2) shall affect any right or liability of the person for whom the work is done and the contractor or sub-contractor as between themselves.

(4) A workman shall not by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury be deemed to have voluntarily incurred the risk of the injury.

86. A workman shall hereafter be deemed not to have undertaken the risks due to the negligence of his fellow-workmen, and contributory negligence on the part of a workman shall not hereafter be a bar to recovery by him or by any person entitled to damages under the Fatal Injuries Act, in an action for the recovery of damages for an injury sustained by, or causing the death of the workman while in the service of his employer, for which the employer would otherwise have been liable.

87. Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action.

88. This Part shall not apply to farm laborers or domestic or menial servants or their employers.

89. This Part shall take effect on, from and after a day to be named in a proclamation by the Governor-in-Council.

SCHEDULE.

Description of Diseases.	Description of Process.
Anthrax.	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelae.	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae.	Any process involving the use of mercury or its preparations or compounds.
Phosphorous poisoning or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelae.	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis.	Mining.
Subcutaneous cellulitis of the hand, (beat hand).	Mining.
Subcutaneous cellulitis over the patella (miners' beat knee).	Mining.
Acute bursitis over the elbow (miners' beat elbow). (1919, *c.* 67, *s.* 20.)	Mining.

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